

STATE OF MICHIGAN  
BEFORE THE MICHIGAN JUDICIAL TENURE COMMISSION

COMPLAINT AGAINST:

Formal Complaint No. 86

Referee David G. Myers  
Sanilac County Friend of the Court  
60 W. Sanilac Road  
P.O. Box 187  
Sandusky, Mi 48471

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Paul J. Fischer ( P35454 )  
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Michigan Judicial Tenure Commission  
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David G. Myers (P30057)  
Respondent Referee  
P.O. Box 187  
60 W. Sanilac Ave.  
Sandusky, Mi, 48471  
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RESPONDENT'S RESPONSE BREIF ON THE ISSUE OF  
SANCTION

## I. ARGUMENT

Respondent Referee David G. Myers disagrees with the suggestion set forth in the Examiner's Sanctions Brief that there are grounds in this case to exceed the typical 90-day suspension "guide" that has recently been used for determining sanctions for a solitary first misdemeanor committed by a judicial officer for the reasons set forth as follows:

A. In In re Steenland, 482 Mich 1230 ( 2008 ), Judge Catherine Bove Steenland was suspended for 90 days, after she pled guilty to a charge of operating a motor vehicle while visibly impaired. Her blood alcohol level at the time of her arrest was .23. It cannot be said that respondent referee's blood alcohol level of .21 at the time of his arrest constitutes grounds to exceed the typical sanction for a solitary first misdemeanor committed by a judicial officer.

B. In In re Nebel, 485 Mich 1049 ( 2010 ), Judge Charles C. Nebel was suspended for 90 days, after he plead guilty to operating a motor vehicle while impaired, after a traffic stop where his blood alcohol level was found to be .09 and his speed on a public highway registered 105 MPH on a Mackinaw County Deputy's radar device. It cannot be said that respondent referee's driving was so offensive as to constitute grounds to exceed the typical sanction for a solitary first misdemeanor committed by a judicial officer.

C. Finally, none of the three most recent cases addressing drunk driving offenses by a judicial officer cited in Examiner's Sanctions Brief in support of a 90 day suspension or greater sanction involved a judicial officer that had already successfully completed District Court sentence for the driving offense involved, had already successfully completed the requirements of the Michigan Secretary of State Office for restoration of his Michigan driving privileges, and had abstained from the use of alcohol and continuously attended twice weekly Alcoholics Anonymous meetings for nearly a year since the driving offense complained of.

## CONCLUSION

Respondent Referee admits that his conduct on September 23<sup>rd</sup>, 2009 was wrong, and he deeply regrets any disgrace or embarrassment he has brought to the judiciary as a result of that conduct.

Respondent Referee urges the Commission to recommend that the Michigan Supreme Court impose a sanction of public censure on Referee David G. Myers, and either not suspend him without pay from his duties as a Sanilac County Referee or suspend him without pay for a period of 30 days.

Dated: August 23<sup>rd</sup>, 2010

A handwritten signature in cursive script, reading "David G. Myers". The signature is written in dark ink and is positioned above a horizontal line.

David G. Myers ( P30057 )

Sanilac County Friend of the Court  
Sanilac County Family Court Referee